

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOSHUA STOKES,
Plaintiff

v.

MORRIS L. HOUSER et al.,
Defendants

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No. 1:22-cv-01136
(Judge Rambo)

ORDER

AND NOW, on this 24th day of August 2023, upon consideration of Defendants’ motions to dismiss the complaint, filed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (Doc. Nos. 15, 18), and in accordance with the Court’s accompanying Memorandum, **IT IS ORDERED THAT:**

1. Defendants Ardery and Houser’s motion to dismiss (Doc. No. 18) is **GRANTED**, and Plaintiff’s Section 1983 Eighth Amendment claim against these Defendants is **DISMISSED WITHOUT PREJUDICE**;
2. Defendants Talasky, Laclera, St. George, and Sottile’s motion to dismiss (Doc. No. 15) is **DENIED**;
3. Plaintiff is **GRANTED** leave to file an amended complaint in order to attempt to assert the personal involvement of Defendants Ardery and Houser in this Section 1983 action;
4. If Plaintiff elects to file an amended complaint, Plaintiff is advised to adhere to the standards set forth by this Court in its accompanying Memorandum. Additionally, should Plaintiff elect to file an amended complaint, he must re-plead every cause of action in the amended complaint that the Court has found to be adequately pled in the original complaint because the amended complaint will supersede the original complaint. See Palakovic v. Wetzel, 854 F.3d 209, 220 (3d Cir. 2017) (stating that “an amended pleading . . . supersedes the earlier pleading

and renders the original pleading a nullity”). In other words, he must not only allege the personal involvement of Defendants Ardery and Houser, but he must also re-plead his Section 1983 Eighth Amendment claims against all of the Defendants;

5. The Clerk of Court is directed to mail Plaintiff a civil rights complaint form. Plaintiff shall title that complaint form “Amended Complaint” and shall include the docket number for this case, 1:22-cv-01136;
6. Plaintiff shall file an amended complaint within **thirty (30) days** of the date of this Order;
7. As discussed in the Court’s accompanying Memorandum, if Plaintiff would, instead, like to forego the filing of an amended complaint and simply proceed on his original complaint as it currently stands, then he shall file a letter with the Court within **thirty (30) days** of the date of this Order, stating the same. In the event that Plaintiff would like to proceed on his original complaint, this matter will proceed to discovery;
8. If Plaintiff fails to file an amended complaint or letter within the thirty (30) days, or fails to file an extension of time in which to do so, then this action will automatically proceed on his original complaint as it currently stands, and Defendants Ardery and Houser will be terminated as Defendants from this case; and
9. The Clerk of Court is directed to **CORRECT** the spelling of the following Defendants’ names on the caption of the docket in this case: Taylor Tulasky; Maypearl St. George; and Jacques LeClerc.

s/ Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge